THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 29904 of 1998

Oral order:

Assailing the award dated 13.12.1996, passed by the Labour Court in I.D. No. 521 of 1993, setting aside the order of removal and directing reinstatement of respondent No.2-workman into service with 25% backwages, the petitioner-APSRTC filed the present writ petition.

Respondent No.2 while working with the petitioner-APSRTC as Driver was involved in an accident. In connection with the said accident, he was charge sheeted. He submitted his explanation to the said charges, but the petitioner dissatisfied with the same, conducted an enquiry. Based on the enquiry report, which held that charges against respondent No.2 are proved, he was removed from service. Respondent No.2 unsuccessfully challenged the same before the appellate authorities. Hence, he raised an industrial dispute in I.D. No. 521 of 1993. The Labour Court taking into account the fact that respondent No.2 was acquitted in the criminal case, by reason of the award impugned in this writ petition, set aside the order of removal and ordered his reinstatement into service with 25% backwages.

When the writ petition was taken up for hearing, the learned Standing Counsel for the petitioner-APSRTC submitted that the petitioner has retired from service, and only limited question as to whether the Labour Court was justified in awarding 25% backwages to respondent No.2 survives for consideration, and submitted that the Labour Court ought not to have awarded 25% backwages to respondent No.2, more particularly when the charge levelled against him stood proved in the enquiry.

The learned counsel appearing for respondent No.2-workman submitted that he has no instructions in the matter.

Since respondent No.2-workman has already retired from service, the correctness or otherwise of the part of the award of the Labour Court that directed reinstatement of respondent No.2-workman into service, need not be gone into. Insofar as grant of 25% backwages to respondent No.2-workman is concerned, the same cannot be sustained for the reason that the Labour Court having found that respondent No.2 failed to prove that he was not gainfully employed, ought not to have awarded backwages by applying the principle of "no work no pay". In that view of the matter, the part of the award of the Labour Court, which directed the petitioner to pay 25% backwages to respondent No.2-cannot be sustained, and the same is accordingly set aside.

Accordingly, the writ petition is partly allowed. No costs.

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N.V. RAMANA, J.

Dated: 15th November, 2007.
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